

**REMARKS**

Applicants have thoroughly considered the Office action mailed January 18, 2006. By this Amendment C, claims 1, 27, 38, and 40 to 41 have been amended to more clearly set forth the invention. Favorable reconsideration of the application as amended is respectfully requested.

*Claim Rejection under 35 U.S.C. §112*

Claims 40 and 41 stand rejected under 35 U.S.C. §112, second paragraph for being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. As suggested by the Office action, Applicants have amended the claims by replacing the terms "application program" with "operating system component" to establish the proper antecedent basis. Therefore, Applicants request the rejection of claims 40 and 41 be removed.

*Claim Rejection under 35 U.S.C. §102(b)*

Claims 1 to 16, 27 to 34, and 36 to 42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Albright, U.S. Patent Application No. 6,110,228 ("Albright"). Applicants respectfully submit that the Albright patent fails to anticipate each and every element of the claimed invention because claimed embodiments of the invention disclose an update or a servicing of an operating system or application program **initiated from the installation media**, as opposed to being in response to a user input. (See Albright, col. 2, lines 54-57, specifying "**A customer initiates servicing** of a program product by composing a service request through the front end, which provides a mechanism for the collection of information regarding the nature of the customer request." (emphasis added)).

Amended claim 1 recites, in part, "**identifying update content related to the operating system component, initiated from one or more installation media, before installing the operating system component on the destination machine from the one or more installation media**, said operating system component being stored on the installation media and being adapted for installation on the destination machine from the one or more installation media..." As previously discussed, the claimed features of the present invention are directed to dynamically obtaining update content for installing an updated operating system and applying the obtained update content to the operating system **prior to installation of the operating**

**system or the application program.** In addition, the process of dynamically obtaining update content is initiated by the installation media.

For example, the operating system stored on an installation media (e.g., a CD-ROM disk) is to be installed on a destination machine. A user may desire to install a new version of the operating system stored on a CD-ROM to a computer. In this example, **before installing the operating system** and due to the initiation from the installation media, the computer requests update content for the operating system or for any aspects relating to the installation of the operating system. The update content for the operating system is dynamically identified and obtained by the computer from one or more update media prior to installation of the operating system. In this manner, the user does not need to make a request to obtain updates for the operating system after the installation of the operating system because all updates are identified and obtained by the computer and that all updates have been obtained and merged before the operating system or the application program was installed. (See also Application, paragraph [0067]).

To the contrary, the Albright patent teaches away from the present invention by disclosing that a service, such as updating or "bug" fixing, of an operating system or an application program is performed **after the application program or operating system is installed.** (Albright, col. 2, lines 47-53; col. 5, lines 63-67, indicating that "the operating system itself resides in the program memory of the remote location CUP 20 (FIG. 1)" (emphasis added)). In addition, the Albright patent suggests that a **user initiates a request for servicing the application program or the operating system.** (See also Albright, col. 2, lines 54-57; col. 8, lines 14-17, disclosing that "the first processing step begins with the receipt of customer system required changes in the form of a [user] service request..." (emphasis added). See also the pseudo code example on cols. 9 and 10, "If the customer selection is Configure Customer Product Image Profile..."). That is, the Albright patent completely teaches away from the claimed features of the invention, and no where does the Albright patent disclose initiation from the installation media and update prior to installation.

Therefore, Applicants submit that the Albright patent fails to disclose or suggest each and every element of amended claim 1. Claims 2 to 16 and 40 to 42 depend from claim 1 and include additional features to claim 1. Therefore, claims 2 to 16 and 40 to 42 are also patentable

over the Albright patent. Hence, the rejection of claims 1 to 16 and 40 to 42 under 35 U.S.C. §102(b) should be removed.

Similarly, amended claim 27 recites, in part, "a publishing component for **initiating the dynamic update of the operating system** by identifying update content related to the operating system stored on the installation medium before installing the operating system, said operating system being stored on one or more installation media and being adapted for installation on the destination machine from the installation media..." The Albright patent specifically teaches away from the claimed invention by discussing the need for the user to initiate identifying or requesting services to the **installed** application program before installing the updates. (See also Albright, Abstract, "A customer initiates a service request..." (emphasis added)). Therefore, Applicants submit that amended claim 27 is patentable over the cited reference. Claims 28 to 37 depend from claim 27 and recite additional features. Therefore, claims 28 to 37 are also distinguishable over the cited art. Hence, Applicants request the rejection of claims 27 to 37 under 35 U.S.C. §102(b) be withdrawn.

Also, amended claim 38 recites, in particular, a system comprises "means for **initiating the dynamic updating of the application program** by identifying update content relating to the application program stored on one or more installation media, said application program being adapted for installation on a destination machine...". The Albright patent not only teaches away from the claimed invention by discussing the need for the user to initiate identifying or requesting services to the **installed** application program before installing the updates but also that the request is made **after the application program or the operating system is already installed in the customer's or user's computer**. (See also Albright, col. 25, lines 12-14, "The customer can easily initiate servicing of a program by composing a service request through the front end." (emphasis added)). Therefore, claim 38 as amended is patentable over the cited art, and claim 39, which depends from claim 38, is also patentable over the cited art. As such, Applicants request that the rejection of claims 38 and 39 under 35 U.S.C. §102(b) be withdrawn.

For at least the reasons noted above, Applicants respectfully submit that claims 1-16 and 27-42 are in condition for allowance and respectfully requests favorable reconsideration of this

application. Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited invention. The fact that Applicants may not have specifically traversed any particular assertion by the Office should not be construed as indicating Applicants' agreement therewith.

**The Applicants wish to expedite prosecution of this application. If the Examiner deems the claims as amended to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the claims in condition for allowance.**

The Commissioner is hereby authorized to charge any deficiency or overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,



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